

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 423 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 23-2-2.5-14, AS AMENDED BY P.L.168-2001,
- 4 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]: Sec. 14. (a) The commissioner may, without a
- 6 hearing, issue a stop order denying the effectiveness of or suspending
- 7 or revoking the effectiveness of a registration if the commissioner finds
- 8 that the issuance of the order is in the public interest and also finds
- 9 that:
- 10 (1) there has been a failure to comply with this chapter or the
- 11 rules or orders of the commissioner pertaining to this chapter;
- 12 (2) the offer or sale of the franchise would constitute
- 13 misrepresentation to, or deceit or fraud on, the purchasers or
- 14 offerees;
- 15 (3) the franchisor has failed to comply with any rule promulgated
- 16 or order issued pursuant to section 12 of this chapter; or
- 17 (4) the franchisor, or the franchisor's predecessor, or any of the
- 18 franchisor's directors, trustees, general partners, chief executives,
- 19 financial officers, accounting officers, franchise sales officers, or
- 20 other principal officers, or, if the franchisor is a limited liability
- 21 company, any member or manager of the franchisor:
- 22 (A) during the ten (10) year period immediately preceding the
- 23 date of registration, has:
- 24 (i) been convicted of a felony;
- 25 (ii) pleaded nolo contendere to a felony charge; or
- 26 (iii) been held liable in a civil action by final judgment;
- 27 if the felony or civil action involved fraud, embezzlement,
- 28 misappropriation of property, or the violation of any state or
- 29 federal statute involving the offer or sale of securities or
- 30 franchises;
- 31 (B) is subject to any currently effective order affecting the
- 32 franchise resulting from a proceeding or pending action

1 brought by any individual or public agency or department;
2 (C) is a defendant in any pending criminal or material civil
3 proceeding;
4 (D) during the ten (10) year period immediately preceding the
5 date of registration, has been the defendant against whom a
6 final judgment was entered in any material civil action; or
7 (E) is the franchisor or a principal executive officer or general
8 partner of the franchisor and has, during the ten (10) year
9 period immediately preceding the date of registration,
10 reorganized due to insolvency or been adjudicated as a
11 bankrupt.

12 (b) An order issued under this section based on a finding by the
13 commissioner under subsection (a)(4)(A) must include a description of
14 the charge, violation, or judgment referred to in subsection (a)(4)(A).
15 An order issued under this section based on a finding by the
16 commissioner under subsection (a)(4)(B) must include a copy of the
17 order referred to in subsection (a)(4)(B). An order issued under this
18 section based on a finding by the commissioner under subsection
19 (a)(4)(D) must include a description of the judgment referred to in
20 subsection (a)(4)(D). An order issued under this section based on a
21 finding by the commissioner under subsection (a)(4)(E) must include
22 a description of the insolvency or adjudication referred to in subsection
23 (a)(4)(E).

24 **(c) Before issuing a stop order under subsection (a)(4), such an**
25 **order must be based on a finding by the commissioner that**
26 **involvement of such person(s) creates an unreasonable risk to**
27 **prospective franchisees. "**

28 Page 2, after line 4, begin a new paragraph and insert:
29 "SECTION 4. **An emergency is declared for this act.**".
30 Renumber all SECTIONS consecutively.
(Reference is to SB 423 as printed January 18, 2002.)

Senator LONG